

from North Dakota for yielding. It will not take me long to make this statement.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2987 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the nomination.

Mr. BURNS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Francis J. Harvey, of California, to be Secretary of the Army? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. McCONNELL. The following Members were necessarily absent from today's session of the Senate:

The Senator from Pennsylvania (Mr. SANTORUM).

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Louisiana (Mr. BREAUX) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 12, as follows:

[Rollcall Vote No. 212 Ex.]

YEAS—85

Alexander	Dorgan	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Chafee	Hollings	Sessions
Chambliss	Hutchison	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Jeffords	Specter
Collins	Johnson	Stevens
Conrad	Kerry	Sununu
Cornyn	Kohl	Talent
Craig	Kyl	Thomas
Crapo	Landrieu	Voinovich
Dayton	Leahy	Warner
DeWine	Lieberman	Wyden
Dole	Lincoln	
Domenici	Lott	

NAYS—12

Akaka	Dodd	Levin
Carper	Durbin	Mikulski
Corzine	Kennedy	Reed
Daschle	Lautenberg	Stabenow

NOT VOTING—3

Biden	Breaux	Santorum
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

Mr. WARNER. I move to reconsider the vote and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREE TRADE AGREEMENT WITH THE UNITED ARAB EMIRATES

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached correspondence from the Executive Office of the President be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE,

Washington, DC, November 15, 2004.

Hon. TED STEVENS,
President Pro Tempore, U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: In accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), and pursuant to authority delegated to me by the President, I am pleased to notify the Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with the United Arab Emirates (UAE). We expect these negotiations to get underway in the beginning of 2005, and we will be consulting closely with the Congress over the next 90 days, as required by the Trade Act.

An FTA with the UAE will promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, moving us closer to the creation of a Middle East Free Trade Area. A U.S.-UAE agreement will build on the FTAs that we already have with Israel, Jordan, and Morocco, as well as the FTA that we recently have signed with Bahrain, and will encourage the six members of the Gulf Cooperation Council (GCC) to adopt standards that promote trade and investment. In 2003, the UAE had \$4.6 billion in two-way trade with the United States, and the United States had a \$2.4 billion trade surplus with the UAE. The UAE is an important strategic partner on a broad array of foreign and national security issues.

This FTA will directly benefit the United States. By reducing and eliminating barriers to trade, a comprehensive FTA with the UAE will generate export opportunities for U.S. companies, farmers, and ranchers, help create jobs in the United States, and help American consumers save money while offering them more choices. The UAE already pro-

vides an attractive market for U.S. products, and is a regional transportation and business hub in the Gulf and the Middle East. The UAE's Jebel Ali port is the third busiest port in the world, with excellent growth opportunities. In 2003, U.S. businesses exported \$3.5 billion worth of products in such areas as machinery, aircraft, vehicles, electrical machinery, and optical and medical instruments. Agriculture exports from the United States totaled \$259 million during the same period. The United States' trade relationship with the UAE is the third largest in the Middle East, behind only Israel and Saudi Arabia.

An FTA will provide new export opportunities for U.S. services firms in sectors such as telecommunications, finance, distribution, energy, construction, engineering, health care, legal services, accounting, tourism and travel, and environmental services. An FTA will also support the UAE's commitment to transparency, openness, and the rule of law, thereby enhancing respect for intellectual property, labor rights, and environmental protection. An FTA will also allow the United States to work more closely with UAE customs and port authorities that manage Jebel Ali and other transshipment points, an important opportunity for cooperation similar to that provided by our FTA with Singapore and the agreement we are negotiating with Panama.

Last year, the UAE entered into a Trade and Investment Framework Agreement (TIFA) with the United States. Since signing the TIFA, the UAE has demonstrated a serious commitment to free trade. It has become a party to the World Intellectual Property Organization (WIPO) Copyright Treaty, and has pledged to join the Information Technology Agreement (ITA) and the WIPO Performances and Phonograms Treaty.

Our initial consultations with the Congress, including with the Congressional Oversight Group on September 8, 2004, indicate broad bipartisan interest in an FTA with the UAE. Following these consultations, I visited the UAE to discuss with top officials the topics covered in our comprehensive FTAs, to identify particular areas for work, and to assess the UAE's commitment to moving forward with an FTA. I came back with a strong sense of the UAE's interest in connecting the FTA to their plans for development, growth and openness. The UAE interest in an FTA also complements The 9/11 Commission Report recommendation urging the United States to expand trade with the Middle East as a way to "encourage development, more open societies, and opportunities for people to improve the lives of their families."

Through our FTAs in the Middle East, the United States is supporting moderate Islamic countries led by modernizers who are promoting openness and economic growth. Supporting countries such as the UAE as they expand their trading and investment relationships with the United States is a concrete and mutually beneficial way for the American people to enhance opportunity and hope in this critical region.

The Administration will continue to work closely with the Congress, including through the consultation, notification, and reporting procedures in the Trade Act. Moreover, to ensure that interested stakeholders are informed and have ample opportunity to provide their views, the Administration will conduct the negotiations in a transparent and accessible manner.

The specific objectives for negotiations with the UAE are as follows:

TRADE IN GOODS

Seek to eliminate tariffs and other duties and charges on trade between the UAE and

the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.

Seek to eliminate the UAE's non-tariff barriers to U.S. exports.

Pursue fully reciprocal access to the UAE's market for U.S. textile and apparel products.

CUSTOMS MATTERS, RULES OF ORIGIN, AND ENFORCEMENT COOPERATION

Seek rules to require that the UAE's customs operations are conducted with transparency, efficiency, and predictability, and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.

Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under an FTA with the UAE apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.

Seek terms for cooperative efforts with the UAE regarding enforcement of customs and related issues, including trade in textiles and apparel.

SANITARY AND PHYTOSANITARY (SPS) MEASURES

Seek to have the UAE affirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.

Seek to ensure that the UAE's policies regarding agricultural biotechnology products and food safety standards are science-based and do not create unjustifiable barriers to trade.

Seek to strengthen collaboration with the UAE on implementing the WTO SPS Agreement and to enhance cooperation with the UAE in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

TECHNICAL BARRIERS TO TRADE (TBT)

Seek to have the UAE reaffirm its WTO TBT commitments, including those relating to labeling requirements on U.S. food and agricultural products produced through biotechnology, and help ensure that the UAE's technical regulations, standards, and conformity assessment procedures do not serve as an unnecessary impediment to trade.

Seek to strengthen collaboration with the UAE on implementation of the WTO TBT Agreement, enhance regulatory transparency, and create a procedure for exchanging information with the UAE on TBT-related issues.

INTELLECTUAL PROPERTY RIGHTS

Seek to establish standards to be applied in the UAE that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement) and other international intellectual property agreements, such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Seek to have the UAE apply levels of protection and practices in line with U.S. law and practices, including appropriate flexibility, in areas such as trademark, copyright, patent, and data protection and enforcement of intellectual property rights.

Seek to strengthen the UAE's procedures to enforce intellectual property rights, such as by ensuring that the UAE authorities seize suspected pirated and counterfeit goods, and related equipment and documentary evidence.

Seek to strengthen measures in the UAE that provide for compensation of right holders for infringements of intellectual property rights and to have the UAE provide for criminal penalties to deter piracy and counterfeiting.

TRADE IN SERVICES

Pursue disciplines to address discriminatory and other barriers to trade in the UAE's

services market, and pursue a comprehensive approach to market access, including any necessary improvements in access to the financial services, telecommunications, and distribution sectors, while permitting each government to address domestic sensitivities.

Seek improved transparency and predictability of the UAE's regulatory procedures, and seek specialized disciplines for financial services and additional disciplines for telecommunication services and other sectors, as necessary.

In parallel with the FTA negotiations, work with the UAE in its efforts to make commitments in the WTO on access to its market for basic telecommunications services.

INVESTMENT

Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in the UAE, while ensuring that UAE investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in the UAE important rights comparable to those that would be available under U.S. legal principles and practice.

Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in the UAE and to address unjustified barriers to the establishment and operation of U.S. investments in the UAE.

Provide procedures to resolve disputes between U.S. investors and the UAE that are in keeping with the trade promotion authority goals of being expeditious, fair, and transparent.

ELECTRONIC COMMERCE

Seek to affirm that the UAE will allow products and services to be delivered electronically and will not unjustifiably discriminate among those products and services.

Seek to affirm that the UAE does not apply customs duties on digital products that are delivered electronically.

Seek to ensure that the UAE determines the dutiable value of digital products contained in carrier media based on the value of the media, not their content.

GOVERNMENT PROCUREMENT

Seek to establish rules requiring government procurement procedures and practices in the UAE to be fair, transparent, and predictable for suppliers of U.S. goods and services who seek to do business with the UAE.

Seek to expand access for U.S. goods and services to the UAE's government procurement market.

TRANSPARENCY/ANTI-CORRUPTION/REGULATORY REFORM

Seek to make the UAE's administration of its trade regime more transparent, and pursue rules that will permit timely and meaningful public comment before the UAE adopts trade-related regulations and other measures.

Seek to ensure that the UAE applies high standards prohibiting corrupt practices affecting international trade and investment and enforces such prohibitions.

TRADE REMEDIES

Provide an appropriate bilateral safeguard mechanism, if necessary.

Make no changes in U.S. antidumping and countervailing duty laws.

ENVIRONMENT

Seek to promote trade and environment policies that are mutually supportive.

Seek an appropriate commitment by the UAE for the effective enforcement of its environmental laws.

Establish that the UAE will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.

Help the UAE strengthen its capacity to protect the environment through the promotion of sustainable development, such as by establishing consultative mechanisms.

LABOR, INCLUDING CHILD LABOR

The UAE needs to independently take significant further steps to address concerns we have raised regarding protection of worker rights. Within the text of the FTA, we will:

Seek an appropriate commitment by the UAE to effectively enforce its labor laws.

Establish that the UAE will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.

Establish procedures for consultations and cooperative activities with the UAE to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor.

STATE-TO-STATE DISPUTE SETTLEMENT

Encourage the early identification and settlement of disputes through consultation.

Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement. In addition, the FTA will incorporate other U.S. objectives such as the protection of legitimate health, safety, environment, essential security, and consumer interests.

The Administration is committed to concluding these negotiations with timely and substantive results for U.S. workers, farmers, ranchers, businesses, and families. We look forward to continued close consultations with Congress as negotiations begin and to pursuing the specific, overall, and principal U.S. negotiating objectives set out in the Trade Act. Working together, we will achieve an FTA that benefits the United States and the UAE, and that advances America's broader goals.

Sincerely,

ROBERT B. ZOELLICK.

HONORING OUR ARMED FORCES

SPECIALIST JAMES C. KEARNEY, III

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to Emerson, IA native Spc. James C. Kearney, III, who lost his life when the military vehicle he was traveling in was struck by a rocket-propelled grenade and small arms fire near Sharan, Afghanistan. Spc. Kearney was assigned to the Iowa Army National Guard Company B, 1st Battalion, 168th Infantry, Air Assault, based in Shenandoah, IA. Spc. Kearney enlisted as an infantryman in 1999 and was mobilized for Operation Enduring Freedom in March 2004. My prayers go out to James's mother and father, Theresa and James Kearney, Jr., as well as his brothers and sister.

In paying tribute to Spc. Kearney, we recognize the efforts of an extraordinary young man who worked to make the world a safer place. The Rev. Ken Gross, a friend of James, describes him as "... a person of character with great determination. He was adventurous, fearless and enjoyed taking risks." Spc. Kearney will always be remembered for the good work that he did for his community and for his country. As a soldier and patriot, Spc.